

Decision of the Chairman of the Department of Energy No. (18) of 2021

Regarding the Rules and Regulations for the Application of Violations, Fines, and Administrative Penalties

The Chairman of the Department of Energy

Having reviewed Law No. (1) of 1974 on the Reorganization of the Governmental Apparatus in the Emirate of Abu Dhabi, and its amendments.

- And Law No. (10) of 1976 on Maintaining the Safety of Cables and Overhead Lines, and its amendments.
- And Law No. (12) of 1978 on Maintaining the Safety of Service Lines, and its amendments.
- And Law No. (2) of 1998 on the Regulation of the Water and Electricity Sector in the Emirate of Abu Dhabi, and its amendments.
- And Law No. (23) of 2006 on the Judicial Department in the Emirate of Abu Dhabi, and its amendments.
- And Law No. (1) of 2017 on the Financial System of the Abu Dhabi Government.
- And Law No. (11) of 2018 on the Establishment of the Department of Energy.
- And Law No. (20) of 2018 on the Establishment of the Emirates Water and Electricity Company "Public Joint Stock Company."
- And Law No. (14) of 2019 on the Establishment of the Abu Dhabi Public Health Center.
- And Law No. (6) of 2021 on the Regulation of Judicial Officers in the Emirate of Abu Dhabi.
- And Federal Law No. (3) of 1987 Issuing the Penal Code, and its amendments.
- And Federal Law No. (35) of 1992 on Criminal Procedures, and its amendments.

- And Federal Law No. (11) of 1992 on Civil Procedures, and its amendments.
- And the Decision of the Chairman of the Executive Council No. (26) of 2018 on Additional Competencies for the Department of Energy.
- And the Decision of the Chairman of the Department of Energy No. (22) of 2020 on the Schedule of Violations and Administrative Fines.
- And based on the public interest of the energy sector and the interest of work in the Department.

Has decided the following: -

Article (1)

Scope of Application

The provisions of this Decision shall apply to violations, fines, administrative penalties, and corrective measures issued pursuant to the provisions of the aforementioned Law No. (11) of 2018.

Article (2)

Regulated Entities

Every natural or legal person working in the energy sector or benefiting from the sector's services in any capacity must comply with all regulations, policies, licenses, approvals, decisions, instructions, circulars, and guides issued by the Department. Approved fines and administrative penalties shall be applied to violators.

Article (3)

Violations and Administrative Penalties Committee

A committee named the "Violations and Administrative Penalties Committee" shall be formed by a decision of the Chairman of the Department, chaired by the Undersecretary of the Department and with the membership of at least three senior employees of the Department, one of whom shall be from the Government and Legal Affairs Department.

Article (4)

Tasks of the Violations and Administrative Penalties Committee

The Violations and Administrative Penalties Committee shall be responsible for the following: -

1. Recommending the issuance, amendment, or cancellation of violations, fines, administrative penalties, and corrective measures, and submitting its recommendations to the Chairman of the Department for approval, and following up on their implementation.
2. Approving the offer of reconciliation to the violator, and following up on its implementation.
3. Considering grievances submitted to the Department regarding violations, fines, administrative penalties, and corrective measures, and submitting recommendations thereon to the Chairman for approval.
4. Approving and endorsing the closure of violation files upon completion of implementation.
5. Approving the delegation of powers, forms, and procedures regarding violations, fines, and administrative penalties before their adoption in accordance with the followed systems.
6. Following up on the tasks and performance of judicial officers and Department employees assigned to apply and follow up on violations and administrative penalties, collect fines, and remove violations.
7. Proposing Department or company employees who are suggested to be granted the capacity of a judicial officer.
8. Recommending the referral of violations that constitute criminal offenses to the Public Prosecution, and submitting them to the Chairman of the Department for approval.
9. Developing and proposing amendments to the schedules of violations, administrative fines, and administrative penalties and submitting them for approval in accordance with the approved systems.
10. Exercising the tasks and powers vested in it under the provisions of this Decision, and any other tasks related to violations, fines, and administrative penalties assigned to it by the Chairman of the Department.
11. The Committee shall establish its meeting procedures and how to vote on its decisions and submit them to the Chairman of the Department for approval. It may appoint an employee from the Licensing and Compliance Section in the Department as its

rapporteur, and seek the assistance of any Department employee it deems appropriate to perform its work.

Article (5)

Reconciliation

1. Reconciliation may be offered to the violator upon the approval of the Violations and Administrative Penalties Committee. Reconciliation shall not be offered to the violator if they repeat the same violation within three years from the date of the previous violation decision.
2. The violator must take corrective measures to remove the violation as determined by the Department, and pay a fine equivalent to (75%) of the prescribed fine for the violation within a period not exceeding sixty days from being notified of the reconciliation offer.
3. If the violator fails to pay the reconciled fine within sixty days from the date of being notified of the reconciliation offer or fails to take corrective measures to remove the violation by the specified deadline, the reconciliation shall be considered null and void, and the violator shall be obliged to pay the full value of the fine, and the Department shall remove the violation at his expense.
4. After removing the violation and paying the fine, the reconciliation report and its attachments shall be presented to the Violations and Administrative Penalties Committee for approval and endorsement of the completion of implementation.

Article (6)

Removal of Violation

The Department of Energy may take the following measures to remove a violation:

1. Determine the necessary corrective measures to remove the violation according to the deadlines approved by the Department.
2. Impose an additional administrative fine of (2,000) two thousand dirhams for each day of delay, up to a maximum of (100,000) one hundred thousand dirhams, on the violator who has not taken the corrective measures to remove the violation by the specified deadline.

3. Seek assistance and coordinate directly with the competent government authorities to remove the violation at the violator's expense.
4. Appoint contractors and consultants to remove the violation at the violator's expense.
5. Prepare an account of the expenses for removing the violation, accompanied by the due date for payment, and notify the violator in writing of the payment due date. This shall be considered a government debt owed by the violator and shall be collected according to the methods prescribed for collecting fines.
6. Coordinate with government authorities to suspend government services and transactions for the violator until the fines and expenses for removing the violation, if any, are paid, and the corrective measures to remove the violation are implemented.

Article (7)

Administrative Penalties

Without prejudice to the Department's authority to impose administrative fines on violators, if the Department finds that any establishment or individual is violating or is likely to violate any of the regulations, policies, licenses, approvals, decisions, instructions, circulars, or guides issued by it, the Department may take any of the following administrative penalties:

1. Notice
2. Warning
3. Temporary suspension of activity
4. Placing the establishment under financial, administrative, and technical supervision
5. Cancellation or suspension of the license
6. Temporary or permanent closure of the establishment.

Article (8)

Imposition of Administrative Penalties

1. Judicial officers and authorized Department employees may impose one of the administrative penalties stipulated in clauses (1), (2), and (3) of the preceding Article directly upon discovering the violation, provided that the activity of the establishment is not temporarily

- suspended unless the violation is likely to cause harm to the health and safety of individuals, property, or the environment.
2. The Chairman of the Department of Energy may impose one of the administrative penalties referred to in clauses (4), (5), and (6) of the preceding Article upon the recommendation of the Violations and Administrative Penalties Committee. Before taking any of these administrative penalties, the Department may notify the establishment to take corrective measures to remove the causes of the violation within the time frame it determines for this purpose.
 3. The violation and the legally prescribed fine shall be imposed in case of non-compliance with the administrative penalties and corrective measures determined by the Department.
 4. Judicial officers and authorized Department employees may seek assistance and coordinate with the competent government authorities to implement the administrative penalties.

Article (9)

Grievance

1. The violator has the right to file a grievance against the Department's decisions regarding fines, administrative penalties, reconciliation, and removal of violations, by a written request addressed to the Chairman of the Department within thirty days from the date the violator is notified of the violation or the decision being grieved.
2. The violator must state in the grievance request the justifying reasons for their request and attach supporting documents, and comply with the forms, deadlines, and periods determined by the Department, and provide any additional data or information, otherwise the grievance will be rejected.
3. Grievances shall be registered in the record designated for this purpose at the Licensing and Compliance Section of the Department. The rapporteur of the Violations and Administrative Penalties Committee shall be responsible for the registration and shall refer the grievances to the Violations and Administrative Penalties Committee to make recommendations and submit them to the Chairman of the Department for approval. The Licensing and Compliance Section shall notify the grievant of the Chairman's decision and follow up on its implementation.

4. Unless the Violations and Administrative Penalties Committee decides otherwise, the implementation of the grieved decision shall be suspended until the grievance is decided upon.
5. When deciding on the grievance, the Department may decide to uphold, cancel, or change the description of the violation, reduce the value of the fine or administrative penalty, amend the corrective measures, or reduce the value of the costs of removing the violation.
6. The decision issued by the Department on the grievance shall be final, with the grievant retaining the right to resort to the judiciary.
7. If the Department does not decide on the grievance within ninety days from the date of its submission, the failure to decide on the grievance shall be considered as an acceptance of the grievance, and the violation or administrative penalty shall be canceled.

Article (10)

Corrective Measures

1. Before imposing violations and administrative penalties, the Department of Energy may notify the violator in writing of the need to correct the cause of the violation and take corrective measures within the time frames determined by the Department.
2. The violation and the legally prescribed fine shall be applied in case of delay or failure to implement any corrective measure determined by the Department to remove the causes of the violation or prevent its potential occurrence within the time frames determined by the Department.

Article (11)

Repetition of Violation

Administrative fines shall be doubled in the case of a repeated violation within three years from the date of the previous violation decision, provided they do not exceed the legally prescribed limit.

Article (12)

Notifications and Periods

1. The Department shall notify the violator of any decisions, procedures, or correspondence through the address declared by the violator or

- the last known address of the violator that is documented in the violation report.
2. The Department shall notify licensed entities through the address provided in the license application unless the Department is informed that the address has been changed.
 3. In all cases, a person is considered to have been notified of any decision or to have received any correspondence if it is shown that the Department sent the notification and correspondence in accordance with clauses (1) and (2) of this Article.
 4. Decisions and official communications may be delivered by hand, registered mail, or email.
 5. If the person or establishment to whom the violation is attributed or their address is unknown, the violation shall be recorded and a report shall be drawn up, and the matter shall be referred to the competent authorities or court.
 6. The periods mentioned in this Decision shall be calculated in accordance with the provisions of the aforementioned Civil Procedures Law No. (11) of 1992 and its amendments.

Article (13)

Inspection and Control

Judicial officers and authorized Department employees shall conduct periodic inspections and control of licensed entities, companies, persons, establishments, and individuals working in the energy sector to verify compliance with the applicable laws and legislation in the sector and to record violations.

Article (14)

Judicial Officer

The Chairman of the Abu Dhabi Judicial Department, in agreement with the Chairman of the Department, shall issue a decision identifying the Department employees or employees of government companies who have the capacity of a judicial officer with respect to crimes and violations that fall within the jurisdiction of the Department of Energy, and the performance of their duties and responsibilities in accordance with the provisions of the aforementioned Law No. (6) of 2021.

Article (15)

Publication of Decisions on Fines and Administrative Penalties

The Department may publish or announce decisions on fines and administrative penalties as it deems appropriate for the purpose of drawing the attention of persons who may be affected by that decision.

Article (16)

Cancellation or Amendment of Decisions

The Department may cancel or amend any fine, administrative penalty, or corrective measure at any time, provided that the violator is notified of this.

Article (17)

Records

The Licensing and Compliance Section of the Department shall maintain the necessary records for the implementation of the provisions of this Decision and follow up on the implementation of decisions on fines, administrative penalties, and corrective measures in coordination with the relevant departments, and submit periodic reports to the Fines and Administrative Penalties Committee.

Article (18)

Collection of Fines

1. The Department of Energy shall collect administrative fines and the costs of removing violations and remit them to the Public Treasury in accordance with the procedures approved by the Department of Finance.
2. If the prescribed fine is not paid within sixty days from the date the violator is notified or the grievance is rejected, the Department shall coordinate with the Government Cases Department at the Abu Dhabi Judicial Department to initiate judicial procedures to collect the fine and the expenses for removing the violation and to take precautionary and enforcement measures.
3. Licensed entities subject to price control systems are prohibited from recovering fines and expenses for removing violations within the maximum allowed revenues for their regulated activities.

4. The Department, after coordinating with the Department of Finance and the Government Cases Department, shall issue mechanisms for collecting administrative fines and expenses for removing violations.

Article (19)

Determining the Type and Nature of the Violation

If the violating act or acts constitute multiple violations, the Violations and Administrative Penalties Committee may determine whether the act or acts committed constitute a single violation or multiple violations and determine the description of the violations and the fines prescribed for each.

Article (20)

Delegation of Competencies

The Department may delegate any of its competencies mentioned in this Decision to any entity or company after the approval of the Executive Council.

Article (21)

Executive Procedures

The Undersecretary of the Department shall issue the necessary regulations, decisions, circulars, procedures, and guides to implement the provisions of this Decision.

Article (22)

Effective Date and Publication

This Decision shall come into force from the date of its issuance and shall be published in the Official Gazette.

Issued in Abu Dhabi on: 24/10/2021

Eng. Awaidha Murshed Al Marar

The Chairman